

Message Text

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ACTION DLOS-07

INFO OCT-01 ISO-00 AF-10 ARA-16 EA-11 EUR-25 NEA-14 RSC-01

IO-14 CG-00 CIAE-00 DODE-00 PM-07 H-03 INR-11 L-03

NSAE-00 NSC-07 PA-04 PRS-01 SP-03 SS-20 USIA-15

AID-20 CEQ-02 COA-02 COME-00 EB-11 EPA-04 NSF-04

SCI-06 FEA-02 ACDA-19 AEC-11 AGR-20 DOTE-00 FMC-04

INT-08 JUSE-00 OMB-01 CIEP-03 CEA-02 TRSE-00 OIC-04

DRC-01 /297 W

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R 251709Z JUL 74

FM AMEMBASSY CARACAS

TO SECSTATE WASHDC 4929

INFO AMEMBASSY ACCRA

AMEMBASSY CAIRO

AMEMBASSY OTTAWA

USUN MISSION NEW YORK 702

UNCLAS SECTION 1 OF 2 CARACAS 6976

FROM US DEL LOS

E.O. 11652: N/A

TAGS: PLOS

SUBJECT: LOS: DAILY REPORT: COMMITTEE II, JULY 23, 1974.

1. SECOND DAY OF CONSIDERATION OF ITEM 4 (STRAIT USED FOR INTERNATIONAL NAVIGATION) BEGAN WITH CANADIAN REP STATING THAT STRAITS SHOULD BE DEFINED IN ACCORDANCE WITH GEOGRAPHIC CIRCUMSTANCES IN MIND SUCH AS EXIST IN SHALLOW WATERS OF MALACA STRAITS AND BAHAMAS BANKS. IT WAS NECESSARY TO IDENTIFY WHICH STRAITS WERE INVOLVED AND TRADITIONAL NAVIGATION SHOULD BE ONE REQUISITE. CANADA WAS SOMEWHAT CRITICAL OF UK ARTICLES WHICH UNCLASSIFIED

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CREATED PRESUMPTION OF INNOCENCE FOR NAVIGATION AND QUESTIONED

ASPECTS OF LIABILITY IN UK ARTICLES. IN THEIR VIEW, ACCOMMODATION BETWEEN STRAIT STATES AND STRAIT USERS WOULD REQUIRED ELABORATION OF RESPECTIVE RIGHTS AND DUTIES.

2. EGYPTIAN REP. STRESSED SECURITY NEEDS OF COASTAL STATE AND ASKED US TWO QUESTIONS (SEE PARA 5 BELOW).

3. POLAND AND HUNGARY SUPPORTED EASTERN EUROPEAN STRAITS ARTICLES WHILE PERU, MOROCCO AND YEMEN ATTACKED ANY REGIME FOR STAIRS OTHER THAN INNOCENT PASSAGE. ICELAND SUPPORTED UK PROPOSAL AS DID TURKEY, IN GENERAL.

4. PRC ATTACKED SUPER-POWERS FOR ATTEMPTING TO DISTINGUISH BETWEEN MERCHANT VESSELS AND WARSHIPS. CHINESE STATED THAT COASTAL STATES COULD NOT TOLERATE INFRINGEMENTS UPON SOVEREIGNTY IN STRAITS OVERLAPPED WITH TERRITORIAL WATERS. GHANA SUPPORTED OAU DECLARATION WHICH ENDORSED INNOCENT PASSAGE IN PRINCIPLE BUT RECOGNIZED NEED FOR FURTHER CLARIFICATION OF DOCTRINE.

REP. SUGGESTED THAT INNOCENT PASAGE REAPPLY TO STRAITS LOCATED IN TERRITORIAL SEA UNLESS OTHERWISE PROVIDED FOR IN LOS TREATY. GHANA WOULD SUPPORT FREE NAVIGATION FOR STRAITS OUTSIDE THE TERRITORIAL SEA AND FELT THAT MERCHANT VESSELS SHOULD HAVE GREATER RIGHTS THAN WARSHIPS. AIRCRAFT WERE COVERED BY THE CHICAGO CONVENTION.

5. US REP. STEVENSON EXERCISED RIGHT OF REPLY WITH RESPECT TO TWO QUESTIONS POSED BY EGYPT: (1) WHAT ASSURANCE WAS THERE THAT A SUBMERGED SUBMARINE WOULD RESPECT THE OBLIGATION NOT TO THREATEN THE SECURITY OF THE COASTAL STATE? (2) WHY HAD US NOT RESPECTED DUTY TO NOTIFY PASSAGE OF WARSHIPS IN AREAS OVERLAPPED BY TERRITORIAL SEA.? WITH RESPECT TO FIRST QUESTION, STEVENSON STATED THAT ISSUE WAS ONE OF COMPLIANCE WITH US PBLIGATIONS, AND THAT US DID INTEND TO FULFILL OUR LEGAL DUTIES. AS A PRACTICAL MATTER STRAITS WERE CONFINED WATERS IN WHICH NO CAPTAIN WOULD TAKE ACTION THREATENING A COASTAL STATE. IN ADDITION, SUBMARINES WERE BEST EQUIPPED TO TRAVEL IN SUBMERGED MODE AND THIS WAS SAFEST WAY TO GO THROUGH STRAITS. ON SECOND QUESTION, US POSITION WAS THAT THRE IS NO NOTICE REQUIREMENT UNDER 1958 CONVENTION ON TERRITORIAL SEA UNCLASSIFIED

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AND CONTIGOUS ZONE. SPECIFIC PROPOSALS ON THIS ISSUE WERE MADE AT 1958 CONFERENCE TO REQUIRE NOTICE OR AUTHORIZATION AND THESE PROPOSALS WERE DEFEATED. A RULE REQUIRING NOTICE WOULD INVOLVE STRAIT STATES IN MATTERS NOT AFFECTING ITS SECURITY AND WOULD SUBJECT IT TO UNNECESSARY PRESSURES. IT WAS SIMPLY NOT REALISTIC TO ENTERTAIN PROPOSALS THAT WOULD DISCRIMINATE AGAINST MILITARY VESSELS AND AIRCRAFT. UN CHARTER RECOGNIZED RIGHT OF SELF DEFENSE WHICH ALL STATES NEED. ACTIONS

CONTRARY TO UN CHARTER WOULD, OF COURSE, NOT BE LEGAL.

6. EGYPT REP. RESPONDED TO US BY SAYING QUESTION WAS WHETHER A RESPONSIBLE GOVERNMENT WOULD TAKE THE RISK ASSOCIATED WITH SUBMERGED SUBMARINES AND THERE WAS THE SAFETY OF THOSE LIVING ON LAND WHICH SHOULD BE CONSIDERED.

7. ARGENTINA AND CHILE THEN EXCHANGED BRIEF COMMENTS ON TREATY REGARDING STRAITS OF MAGELLAN WHICH LINK HIGH SEAS OF PACIFIC WITH HIGH SEAS OF ATLANTIC.

8. CHAIRMAN THEN INDICATED (CONTRARY TO PRIOR MEETING OF WHERE HE INDICATED PAPER WOULD BE ON CONTIGOUS ZONE) THAT HIS INFORMAL DOCUMENT NUMBER 2 WOULD BE ON ITEM 4. NEXT MEETINGS ON JULY 25 WOULD BE INFORMAL DISCUSSIONS OF REVISION 1 OF WORKING PAPER 1 WHICH WOULD ALSO CONTAIN SECTION ON INNOCENT PASSAGE.

9. IN AFTERNOON SESSION, OMAN EXPLAINED ITS DRAFT TREATY ARTICLES ON STRAITS WHICH EMPHASIZE INNOCENT PASSAGE APPROACH IN STRAITS. SINGAPORE REP. SAID THAT IN ORDER TO REACH COMPROMISE BETWEEN STRAITS STATES AND INTERNATIONAL COMMUNITY INTERESTS THERE MUST BE SOME RESTRICTIONS ON FREEDOM OF NAVIGATION, BUT AT THE SAME TIME STRESSED IMPORTANCE OF TRANSIT THROUGH STRAITS TO SINGAPORE. MOST IMPORTANT ELEMENT IN STRAITS'S REGIME MUST BE OBJECTIVITY AND REASONABLENESS. WHEREVER POSSIBLE STRAITS STATES SHOULD APPLY INTERNATIONAL STANDARDS IN STRAIT, BUT SHOULD HAVE SOME RESIDUAL AUTHORITY WHERE INTERNATIONALLY AGREED STANDARDS DO NOT EXIST. SPAIN STATED THAT BASIS FOR NEGOTIATION ON STANDARDS ISSUE IS A COMBINATION NONSUSPENDABLE INNOCENT PASSAGE COUPLED WITH PRESUMPTION OF INNOCENT FOR COMMERCIAL VESSELS. HE STATED THAT THERE IS MORE INTERNATIONAL COMMUNITY INTERESTS IN PASSAGE OF COMMERCIAL SHIPS THAN WARSHIPS THROUGH THE STRAITS AND THEREFORE DISTINCTION UNCLASSIFIED

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SHOULD BE MADE BETWEEN COMMERCIAL AND MILITARY VESSELS.

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FROM US DEL LOS

Fiji Rep. introduced revised Straits articles and urged that convention spell out in detail powers of Straits states and obligations of transiting vessels.

10. Israel expressed support for freedom of navigation and overflight in all international straits. He urged that free transit regime apply both to straits linking one part of high seas to another and to straits linking high seas to territorial seas of another state. These straits should receive identical treatment. Algerian Rep. stated that his government could not agree to any restriction on passage through international straits. He proposed that the question of overflight be treated in a different convention. Chile stated it is essential to define the term quote straits used for international navigation unquote and proposed that definition used in Corfu Channel

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CASE AND 1958 TERRITORIAL SEA CONVENTION BE ADOPTED.

11. Nigeria urged that there be a distinction between passage of merchant vessels and of warships through straits and los convention not deal with overflight. He favored freedom of navigation in straits which would be far within the economic zone of one or more states and innocent passage in straits overlapped by territorial seas. He concluded by saying that provision

MUST BE MADE FOR STATE RESPONSIBILITY FOR DAMAGE IN STRAITS.

12. ALBANIA MADE BRIEF STATEMENT ATTACKING US AND USSR BY NAME FOR USING MERCHANT SHIPS FOR ESPIONAGE PURPOSES. HE STATED COASTAL STATES SHOULD HAVE JURISDICTION OVER STRAITS AND THAT REGIME OF INNOCENT PASSAGE SHOULD APPLY. KUWAIT REP., SPEAKING ON BEHALF OF HIS DELEGATION AND THAT OF SAUDI ARABIA, SAID REGIME OF PASSAGE THROUGH STRAITS SHOULD APPLY ONLY TO THOSE STRAITS LINKING ONE PART OF THE HIGH SEAS TO ANOTHER PART OF HIGH SEAS. HE STATED THAT THERE IS NEED FOR OBJECTIVE CRITERIA FOR INNOCENT PASSAGE IN ORDER TO GUARANTEE FREEDOM OF TRANSIT BY MERCHANT SHIPS. THERE SHOLD BE A DISTINCTION MADE BETWEEN MERCHANT SHIPS AND WARSHIPS, AND PRINCIPLE OF PRIOR NOTIFICATION COULD SERVE AS COMPROMISE FORMULA.
BULGARIA MADE LENGTHY STATEMENT URGING FREE, UNIMPEDED, AND UNDELAYED TRANSIT PRINCIPLE. COMMENTNG ON THOSE PROPOSALS THAT DISTINCTION BE MADE BETWEEN MERCHANT SHIPS AND WARSHIPS, BULGAIN REP., SAID DOUBLE STANDARD COULD LEAD TO POLITICAL DISCRIMINATION AND TO SERIOUS POLITICAL PROBLEMS.

13. UKRANIAAN SSR SPOKE IN FAVOR OF EARTERN EUROPEAN DRAFT ARTICLES ON STRAITS AS WELL AS RESPONDING TO EARLIER CHINESE COMMENTS. CHINESE EXERCISED RIGHT OF REPLY WITH STRONG ATTACK ON DISARMAMENT POLITIES OF USSR. IRAQ APPEALED TO UK AND EARTERN EUROPEN CO-SPONSORS TO REMOVE THEIR DRAFT ARTICLES ON NON-SUSPENDABLE INNOCENT PASSAGE FOR STRAITS SUCH AS TIRAN. LIBERIA DID NOT TAKE POSITION BETWEEN FREE PASSAGE AND INNOCENT PASAGE ON BASIS THAT CONCEPTS WERE NOT ADEQUATELY DEFINED. INDIA MADE GENERALLY MODERATE STATEMENT EMPHASIZING NEED TO PROTECT BOTH COASTAL STRAITS STATES AND UNHINDERED TRANSIT OF STRAITS.

14. PARAGUAY FORMALLY MOVED THAT COMMITTEE II ADOPT 15 MINUTE UNCLASSIFIED

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TIME LIMIT FOR INDIVIDUAL STATEMENTS AND PROPOSAL WAS ADOPTED BY CONSENSUS. CHAIRMAN ANNOUNCED THAT OVER 40 STATES HAD SPOKEN ON ITEM 4 AND THAT SEVERAL NEW PROPOSALS HAD BEEN SUBMITTED. HE SAID DEBATE ON ITEM 4 WOULD TERMINATE AT NEXT MEETING AFTER ONE REMAINING SPEAKER AND ITEM 5 (CONTINENTAL SHELF) WULD BE TAKEN UP. CHAIRMAN STATED THAT DELEGATIONS COULD REFER TO ECONOMIC ZONE AND PREFERENTIAL RIGHTS IN ITEM 5 DISCUSSION DUE TO CLOSE RELATIONSHIP TO CONTINENTAL SHELF ISSUES.

STENVENSON

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Message Attributes

Automatic Decaptoning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: LAW OF THE SEA, COMMITTEE MEETINGS, MEETING PROCEEDINGS
Control Number: n/a
Copy: SINGLE
Draft Date: 25 JUL 1974
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: n/a
Disposition Approved on Date:
Disposition Authority: n/a
Disposition Case Number: n/a
Disposition Comment:
Disposition Date: 01 JAN 1960
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1974CARACA06976
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Film Number: D740202-0402
From: CARACAS
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1974/newtext/t19740719/aaaaapzf.tel
Line Count: 272
Locator: TEXT ON-LINE, ON MICROFILM
Office: ACTION DLOS
Original Classification: UNCLASSIFIED
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 5
Previous Channel Indicators:
Previous Classification: n/a
Previous Handling Restrictions: n/a
Reference: n/a
Review Action: RELEASED, APPROVED
Review Authority: garlanwa
Review Comment: n/a
Review Content Flags:
Review Date: 11 JUL 2002
Review Event:
Review Exemptions: n/a
Review History: RELEASED <11 JUL 2002 by thomasv0>; APPROVED <09-Aug-2002 by garlanwa>
Review Markings:

Declassified/Released
US Department of State
EO Systematic Review
30 JUN 2005

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: LOS: DAILY REPORT: COMMITTEE II, JULY 23, 1974.
TAGS: PLOS, PBOR, PFOR, CARACAS
To: STATE
Type: TE
Markings: Declassified/Released US Department of State EO Systematic Review 30 JUN 2005